

The Gazette of India



EXTRAORDINARY

PART I—Section 1

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MINISTRY OF COMMERCE AND INDUSTRY ORDERS

IMPORT TRADE CONTROL

New Delhi, the 30th September 1960

No. 13/60.—The following Open General Licence issued by the Central Government under the Imports (Control) Order, 1955, is published for general information:—

IMPORT TRADE CONTROL—OPEN GENERAL LICENCE NO. LXIII

| S. No. & Part of the I.T.C. Schedule | Description |
|--|---|
| 1 | 2 |
| 3/IV | Fish, not otherwise specified |
| 4/IV | Fish, salted, wet |
| 144/IV | Hides and skins, raw or salted |
| 122 (xlv)/V | Kapok. (Payments for imports of this item under this O. G. L. will be made in non-convertible Indian rupees as provided for in Protocol No. I to the Trade Agreement between the Governments of India and Pakistan signed on the 21st March, 1960.) |

Provided that:—

- (i) Such goods are shipped or despatched on through consignment to India on or before the 31st March, 1961 without any grace period whatsoever; and
- (ii) nothing in this licence shall affect any prohibition or regulation affecting the import of any of the goods specified in the above schedule and in force at the time when such goods are imported.

No. 14/60.—In exercise of the powers conferred by sub-section (I) of Section 3 of the Imports and Exports (Control) Act, 1947 (XVIII of 1947) as in force in India and as applied to the State of Pondicherry, the Central Government hereby directs that the following amendment shall be made in Schedule I annexed to the Imports (Control) Order, 1955 published *vide* Government of India, Ministry of Commerce and Industry, Order No. 17/55, dated 7th December, 1955, namely:—

In part II of the said Schedule, the existing entries against S. No. 41/II may be deleted.

No. 15/60.—In exercise of the powers conferred by sub-section (I) of Section 3 of the Imports and Exports (Control) Act, 1947 (XVIII of 1947) as in force in India and as applied to the State of Pondicherry, the Central Government hereby directs that the following amendment shall be made in Schedule I annexed to the Imports (Control) Order, 1955 published *vide* Government of India, Ministry of Commerce and Industry, Order No. 17/55, dated 7th December, 1955, namely:—

In Part III of the said Schedule against S. No. 5(1)/III, the existing words "Hosiery machinery" appearing in col. (2) may be substituted by the following:—

"Knitting machines (including hosiery machines and embroidery machines) but excluding knitting machines requiring less than 1/4 H.P."

D. S. JOSHI, Addl. Secy.

(2) Notwithstanding anything to the contrary contained in any other law, no partition or transfer by way of sale or gift of an estate or part thereof made on or after the 10th August, 1957, shall be recognised for the purpose of assessing the compensation.

(3) Nothing in sub-section (2) shall apply to—

(a) any sale made under an order of court in execution of any decree or order for payment of money, or

(b) any sale or gift made in favour of a wakf, a trust, an endowment or a society registered under the Societies Registration Act, 1860 and established wholly for charitable purposes, unless the Government in any particular case directs otherwise.

~~as of 1860.~~

143. The Administrator shall, as soon as possible after the publication of a notification under section 134, appoint one or more officers to be compensation officers to prepare compensation assessment rolls and to perform such other duties as may be prescribed.

144. (1) The compensation officer shall prepare a compensation assessment roll in respect of every estate vested in the Government under Chapter XI.

(2) The compensation assessment roll shall contain particulars of the gross income and the net income from the estate, the share of the net income of the intermediary or each of the intermediaries, the amount of compensation payable to him or them and such other particulars as may be prescribed.

(3) Where an intermediary has shares or interest in two or more estates all of which have vested in the Government, the particulars of the shares or interest of such intermediary in the net income from all such estates and the compensation payable to him in respect of his shares or interest in all such estates shall be shown in the compensation assessment roll relating to any one of such estates.

(4) Where an intermediary has shares or interest in two or more estates either or any of which has not vested in the Government, the compensation payable to the intermediary shall be determined after all such estates have vested in the Government, on the basis of the aggregate of his shares or interest in the net income from all such estates.

(5) Nothing in sub-section (4) shall be construed as authorising the postponement of payment of *ad interim* compensation to any such intermediary as is referred to in that sub-section in respect of the estate or estates which have vested in the Government.

(6) For the purpose of preparing the compensation assessment roll, the compensation officer may require an intermediary to submit such statements and furnish such particulars as may be prescribed.

Determination of gross income and net income.

145. (1) For the purpose of assessment of compensation payable in respect of an estate,—

(a) the gross income from the estate shall be taken to consist of—

(i) in respect of lands other than those referred to in section 136, the rents, cesses, local rates and other amounts payable or deemed to be payable to the intermediary or intermediaries by the tenants and tenure-holders for the previous year, including the commuted value of rents payable in kind which value shall be determined in the prescribed manner;

(ii) the gross income from *abadi* sites, fisheries, hats, bazars, ferries, forests, tolls, waste lands and other interests in the estate for the previous year;

(iii) the aggregate of the annual rents for the previous year from buildings used as offices or *cutcherries* and any other building which vest in the Government;

(iv) any other income during the previous year appertaining to the estate vesting in the Government not expressly mentioned in the foregoing sub-clauses;

(b) the net income from the estate shall be computed by deducting from the gross income the following, namely:—

(i) any sum which was payable by the intermediary or intermediaries during the previous year as land revenue, cesses, local rates or rent to the Government in respect of the interests to which the gross income relates;

(ii) any sum payable under the Bengal Agricultural Income-tax Act, 1944, as extended to Tripura or the Indian Income-tax Act, 1922, during the previous year as defined in ^{Ben. IV of 1944} ~~11 of 1932~~, those Acts, in respect of the interests to which the gross income relates;

(iii) charges on account of management and collection at the following rates, namely:—

| <i>Amount of gross income</i> | <i>Rate</i> |
|---|--------------------------------------|
| (a) Where the gross income exceeds Rs. 30,000. | 15 per centum of such gross income. |
| (b) Where the gross income exceeds Rs. 10,000 but does not exceed Rs. 30,000. | 12½ per centum of such gross income. |
| (c) Where the gross income exceeds Rs. 5,000 but does not exceed Rs. 10,000. | 10 per centum of such gross income. |

(d) Where the gross income exceeds $7\frac{1}{2}$ per centum of such gross Rs. 2,500 but does not exceed Rs. 5,000.

(e) Where the gross income does not exceed 5 per centum of such gross income: Rs. 2,500.

Provided that the net income (after deducting the charges on account of management and collection) from an estate which falls under item (a), (b), (c) or (d) shall in no case be less than the maximum net income from an estate which falls under the item immediately following.

Illustration.—The net income after deducting the charges on account of management and collection at $12\frac{1}{2}$ per cent. under item (b) from an estate the gross income of which is Rs. 10,100 will be Rs. 8,837.50 while the net income after deducting the charges on account of management at 10 per cent. under item (c) from an estate the gross income of which is Rs. 10,000 will be Rs. 9,000; under the proviso, the net income from the first mentioned estate shall be taken to be Rs. 9,000 and not Rs. 8,837.50.

(2) The net income from the estate as determined under sub-section (1) shall be apportioned among all the intermediaries having a share or interest in the estate in the proportion of their shares or interest, and if in doing so, any dispute involving a question of title arises, the compensation officer shall refer the parties to a civil court.

Explanation.—For the purpose of this section except clause (b) (ii) of sub-section (1), “previous year” means the year immediately preceding the year in which the vesting date falls.

146. (1) The compensation payable to an intermediary shall be a multiple of his net income from the estate or where the intermediary has shares or interests in two or more estates, of the aggregate of his net incomes from all such estates, in accordance with the following table, namely:—

| <i>Amount of net income</i> | <i>Total compensation payable</i> |
|---|---|
| (a) Where the net income does not exceed Rs. 1,000. | Fifteen times such net income. |
| (b) Where the net income exceeds Rs. 1,000 but does not exceed Rs. 2,500. | Twelve times such net income or the maximum amount under (a) above, whichever is greater. |

(c) Where the net income exceeds Rs. 2,500 but does not exceed Rs. 5,000. Eleven times such net income or the maximum amount under (b) above, whichever is greater.

(d) Where the net income exceeds Rs. 5,000 but does not exceed Rs. 7,500. Ten times such net income or the maximum amount under (c) above, whichever is greater.

(e) Where the net income exceeds Rs. 7,500 but does not exceed Rs. 10,000. Nine times such net income or the maximum amount under (d) above, whichever is greater.

(f) Where the net income exceeds Rs. 10,000 but does not exceed Rs. 15,000. Eight times such net income or the maximum amount under (e) above, whichever is greater.

(g) Where the net income exceeds Rs. 15,000 but does not exceed Rs. 30,000. Seven times such net income or the maximum amount under (f) above, whichever is greater.

(h) Where the net income exceeds Rs. 30,000 but does not exceed Rs. 50,000. Six times such net income or the maximum amount under (g) above, whichever is greater.

(i) Where the net income exceeds Rs. 50,000 but does not exceed Rs. 1,00,000. Five times such net income or the maximum amount under (h) above, whichever is greater.

(j) Where the net income exceeds Rs. 1,00,000 but does not exceed Rs. 3,00,000. Three times such net income or the maximum amount under (i) above, whichever is greater.

(k) Where the net income exceeds Rs. 3,00,000. Two times such net income or the maximum amount under (j) above, whichever is greater.

(2) Where the net income or any portion of the net income from an estate is dedicated exclusively to charitable or religious purposes, the compensation payable in respect of such net income or portion shall, instead of being assessed under sub-section (1), be assessed as a perpetual annuity equal to such net income or portion, as the case may be, payable in the prescribed manner for those purposes.

Explanation.—For the purpose of this sub-section, if the salary, remuneration or any allowance payable to the Mutawalli of a wakf or the shebait of a Hindu temple or a trustee of any other charitable or religious trust does not exceed 15 per cent. of the net income, then such net income shall be deemed to be dedicated exclusively to charitable or religious purposes.

147. (1) The Administrator shall appoint a claims officer not below the rank of sub-judge to dispose of the claims of creditors whose debts are secured by a mortgage of or charge on any estate or part thereof vested in the Government under section 134 and to discharge any other duties assigned to him by this Act or the rules made thereunder.

(2) Every creditor referred to in sub-section (1) shall prefer his claim in writing before the claims officer in the manner and within the time prescribed.

(3) The claims officer shall inquire into the claims in accordance with such rules as may be prescribed and determine the amount to which each of the creditors is entitled.

(4) Where there are two or more creditors, the claims officer shall determine, in accordance with the provisions of the Transfer of Property Act, 1882, the order in which each such creditor is entitled to receive the amount due to him.

148. (1) Any person aggrieved by an order of the claims officer may, within sixty days of the date of the order, prefer an appeal to the District Judge having jurisdiction.

(2) The decision of the District Judge on appeal, or of the claims officer where no appeal is preferred, shall be final.

149. (1) After the amount of compensation has been determined in accordance with the provisions of section 146 and entered in the compensation assessment roll, the compensation officer shall cause a draft of such roll to be published in the prescribed manner and for the prescribed period. The compensation officer shall send copies of the relevant portions of the draft roll to the intermediaries concerned and shall receive and consider any objections which may be made within three months of the receipt of such copy to any entry therein or to any omission therefrom. The compensation officer shall dispose of such objections in the prescribed manner.

(2) Separate draft compensation assessment rolls may be prepared and published under sub-section (1) for different villages or groups of villages.

Disposal of
claims of
creditors.

Appeal
against the
decision of
claims
officer.

Preliminary
publication
of compensa-
tion asses-
ment roll
and disposal
of objections.

Contents of the order of compensation officer.

Appeals against order of compensation officer.

Final publication of the compensation assessment roll.

Correction of *bona fide* mistakes.

150. Every order of the compensation officer deciding an objection under sub-section (1) of section 149 shall contain a concise statement of the case, the points for determination, the decision thereon and the reasons for such decision.

151. (1) From every order passed by a compensation officer under section 150, an appeal shall lie to a Special Judge appointed for the purpose, within ninety days of the date of the order.

(2) An appeal shall lie to the court of the Judicial Commissioner from every order passed on appeal by a Special Judge under sub-section (1), within sixty days of the passing of such order, on any of the grounds specified in section 100 of the Code of Civil Procedure, 1908.

5 of 1908.

(3) The decision of the Judicial Commissioner, or of the Special Judge where no second appeal is preferred, or of the compensation officer where no appeal to the Special Judge is preferred, shall be final.

152. (1) Where no objection or appeal has been filed or all the objections and appeals filed have been finally disposed of, the compensation officer shall cause the draft compensation assessment roll to be finally published, or make such alterations in the draft compensation assessment roll as may be necessary to give effect to any order passed on objection made under sub-section (1) of section 149 or on appeal under section 151 and cause the roll as so altered to be finally published, in the prescribed manner together with a certificate stating the fact of such final publication and the date thereof.

(2) The publication of the compensation assessment roll under sub-section (1) shall be conclusive evidence that the said roll has been duly made under this Chapter and every entry in such roll shall, save as otherwise provided in this Act, be conclusive evidence of the matters referred to in such entry.

153. (1) No correction of the compensation assessment roll after it has been finally published under section 152 shall be made except as provided in this section.

(2) Correction of *bona fide* mistakes or corrections necessitated by succession to or inheritance of any interest in the estate can be made by the compensation officer at any time before the payment of compensation, either of his own motion or on the application of the person interested, but no such correction shall be made while any legal proceeding affecting such entry is pending.

(3) Every time a correction is made under sub-section (2), the compensation officer shall cause a draft of the correction to be

published in the same manner as the draft compensation assessment roll, and after considering and disposing of any objections that may be made, shall cause the correction to be finally published.

154. After the vesting date and before the final publication of the compensation assessment roll, *ad interim* payment to the outgoing intermediary may be made as follows:—

payment of compensation.

(a) the compensation officer shall calculate the probable amount of compensation payable to him;

(b) two and a half per cent. of such probable amount shall be paid *ad interim* to each intermediary in cash every year until such time as the compensation assessment roll is finally published;

(c) if there is any dispute as to the title of any person to receive the amount or as to the apportionment of it, the amount shall be kept in deposit in the manner prescribed until the dispute is finally determined; and on such determination, the compensation officer shall pay the amount or the portion thereof to the person or persons entitled to receive the same.

155. (1) After the compensation assessment roll has been finally published, the compensation officer shall deduct from the amount shown in such roll as payable to an intermediary or any other person having interest in the estate, the following amounts, namely:—

(a) *ad interim* payments made under section 154;

(b) the amount, if any, the deduction of which has been ordered under section 135;

(c) the amounts payable to creditors as determined by the claims officer.

(2) The balance remaining after the deductions referred to in sub-section (1) are made shall be given in cash, in one lump sum or in annual instalments not exceeding twenty, or in bonds, or partly in cash and partly in bonds, in accordance with such rules as may be prescribed.

(3) The bonds referred to in sub-section (2) may be either negotiable or non-negotiable, and transferable in such circumstances and in such manner as may be prescribed and shall carry interest at the rate of two and a half per cent. per annum on the amount outstanding thereon, with effect from the date of issue.

(4) If any dispute arises as to the title of any person to receive the amount or as to the apportionment of it, the compensation

officer may, if he thinks fit, keep the amount of compensation or the bonds referred to above in deposit in the manner prescribed, until the dispute is finally determined; and on such determination, the compensation officer shall pay the amount or the portions thereof to the person or persons entitled to receive the same.

Compensa-
tion due
to main-
tenance
holder,

156. (1) If any person claiming as maintenance holder to be entitled to any portion of the compensation awarded to any intermediary under this Chapter applies to the compensation officer for payment of the same to him, the compensation officer may, with the consent of the intermediary, direct the payment to the applicant out of the compensation of such amount as the intermediary may have agreed to be paid to the applicant, and any such payment shall be a valid discharge of the liability of the Government in respect of the amount so paid.

(2) If the intermediary does not give his consent, the compensation officer shall direct the applicant to file, within three months, a suit or other proceeding in the court having jurisdiction to establish his claim and order that the amount claimed shall not in the meantime be paid to the intermediary.

(3) The Government shall not be made a party to any suit or proceeding instituted or commenced in pursuance of any direction given under sub-section (2).

(4) If the suit or proceeding referred to in sub-section (2) is instituted or commenced within the period aforesaid, the compensation officer shall place the amount claimed at the disposal of the court before which such suit or proceeding is instituted.

(5) If the suit or proceeding is not instituted or commenced within the period of three months aforesaid, the compensation officer shall order the amount to be paid to the intermediary.

Explanation.—For the purpose of this section, a maintenance holder means a person entitled to receive maintenance under a registered deed, decree or order of court.

Compensa-
tion due
to person
incompe-
tent to
alienate.

157. If any intermediary entitled to receive compensation in respect of any interest is a person incompetent to alienate such interest, the compensation officer shall keep the amount of compensation payable in respect of such interest, whether in cash or in bonds, in deposit with the Collector who shall arrange to invest the cash or the income from the bonds in the purchase of such Government or other approved securities as the Collector thinks fit and shall direct the payment of the income from such investment to the intermediary who would for the time being have been entitled to hold and enjoy such interest if it had not vested in the

Government; and such cash, bonds and securities shall remain so deposited until they are made over to any person or persons becoming absolutely entitled thereto:

Provided that nothing herein contained shall affect the liability of any person who may receive the whole or any part of any compensation under this section to pay the same to the person lawfully entitled thereto.

158. The Collector, the compensation officer and the claims officer, for the purposes of any inquiries or proceedings under this Part, shall have the same powers as are vested in a court under the Code of Civil Procedure, 1908, in respect of—
5 of 1908. Inquiries to be judicial proceedings.

- (a) enforcing the attendance of any person and examining him on oath or affirmation;
- (b) compelling the production of documents; and
- (c) issuing commission for the examination of witnesses;

45 of 1866. and such inquiries or proceedings shall be deemed to be judicial proceedings within the meaning of sections 193 and 228 of the Indian Penal Code.

159. Whoever—

Penalties.

- (a) wilfully fails or neglects to comply with any requirements made of him under this Part, or
- (b) contravenes any lawful order passed under this Part,
or
- (c) obstructs or resists the taking by the Collector or any other officer authorized by him in writing of charge of any property which is vested in the Government under this Part, or
- (d) furnishes information which he knows or believes to be false or does not believe to be true,

shall, on conviction before a Magistrate, be punishable with fine which may extend to five hundred rupees.

160. Where, as a result of the operation of this Part, any person acquires the right to hold land either as a raiyat or an under-raiyat, the provisions of Part III shall as far as may be, apply to the determination of such right and in such application, any reference in the said Part to the commencement of this Act shall be construed as a reference to the vesting date.
Application of Part III to persons becoming raiyats or under-raiyats under Part IV.

161. (1) The Administrator may, by notification in the Official Gazette, make rules for the purpose of carrying out the purposes of this Part.
Power to make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the manner of publication of a notification under section 134;

(b) the procedure to be followed and the forms to be adopted in inquiries and proceedings under this Part;

(c) the mode of service of any order, notice or other documents under this Part;

(d) the form of the statements to be furnished by intermediaries;

(e) the inspection of and making notes from documents, registers and records under section 137, the grant of certified copies thereof and the fee to be charged for such grant;

(f) the form and the manner in which compensation assessment rolls shall be prepared and the particulars to be mentioned therein;

(g) the manner of apportionment of net income among intermediaries;

(h) the procedure to be followed in the case of intermediaries having shares or interest in different estates;

(i) the manner in which the preliminary and the final publication of the compensation assessment roll shall be made;

(j) the manner of determining the amount of annuities payable to religious and charitable institutions and the procedure for making payments;

(k) the manner in which the income of the previous year shall be determined;

(l) the determination of the amount of *ad interim* compensation;

(m) the manner in which and the period within which creditors may prefer their claims before the claims officer and the procedure to be followed in the disposal of such claims;

(n) the manner in which objections shall be submitted to the compensation officer and the procedure to be followed in the disposal of such objections;

(o) the manner of determining the commuted value of rents under section 145;

(p) the manner of preferring appeals under Chapters, XI and XII;

(q) the manner of keeping in deposit the amount of compensation under sections 156 and 157;

- (r) the form and contents of bonds;
- (s) the manner in which, and the circumstances under which, bonds shall be transferable; and
- (t) any other matter which is to be, or may be, prescribed.

PART V

CHAPTER XIII.—CEILING ON LAND HOLDINGS

162. The provisions of this Chapter shall not apply to land owned Exemptions by the Government or a local authority.

163. For the purposes of this Chapter,—

Definitions.

(a) “ceiling limit”, in relation to land, means the limit fixed under section 164;

(b) “family”, in relation to a person, means the person, the wife or husband, as the case may be, and the dependent children and grand-children, of such person;

(c) “land” does not include land used for non-agricultural purposes.

164. No person either by himself or, if he has a family, together with any other member of his family (hereinafter referred to as the person representing the family) shall, whether as a raiyat or an under-raiyat or as a mortgagee with possession or otherwise, or partly in one capacity and partly in another, hold land in excess of twenty-five standard acres in the aggregate:

Provided that where the number of members of the family of such person exceeds five, he may hold five additional standard acres for each member in excess of five, so however as not to exceed fifty standard acres in the aggregate.

Explanation.—In the case of a company, an association or any other body of individuals, the ceiling limit shall be twenty-five standard acres.

165. Every person representing a family who at the commencement of this Act holds, or has at any time during the period between the 10th day of August, 1957 and such commencement held, land in excess of the ceiling limit shall submit to the competent authority, in such form and within such time as may be prescribed, a return giving the particulars of all land held by him and indicating therein the parcels of land, not exceeding the ceiling limit, which he desires to retain:

Provided that in the case of a joint holding, all co-sharers may submit the return jointly indicating the parcels of land, not exceeding the aggregate of their individual ceiling limits, which they desire to retain.

Explanation.—In the case of a person under disability, the return shall be furnished by his guardian or authorised agent, as the case may be.

Collection of information through other agency.

166. If any person, who under section 165 is required to submit a return, fails to do so, the competent authority may collect the necessary information through such agency as may be prescribed.

Procedure for determination of excess land.

167. (1) On receipt of any return under section 165 or information under section 166 or otherwise, the competent authority shall, after giving the persons affected an opportunity of being heard, hold an inquiry in such manner as may be prescribed, and having regard to the provisions of section 168 and section 169 or of any rules that may be made in this behalf, it shall determine—

- (a) the total area of land held by each person representing the family;
- (b) the specific parcels of land which he may retain;
- (c) the land held by him in excess of the ceiling limit;
- (d) whether such excess land is held by him as a raiyat or as an under-raiyat or as a mortgagee with possession;
- (e) the excess land in respect of which the under-raiyat or the mortgagee with possession may acquire the rights of the raiyat or the mortgagor, as the case may be;
- (f) the excess land which may be restored to a raiyat or a mortgagor;
- (g) the excess land which shall vest in the Government; and
- (h) such other matters as may be prescribed.

(2) For the purposes of determining the excess land under this section, any land transferred at any time during the period between the 10th day of August, 1957 and the commencement of this Act shall, notwithstanding such transfer, be deemed to be held by the transferor.

(3) The competent authority shall prepare a list in the prescribed form containing the particulars determined by him under sub-section (1) and shall cause every such list to be published in the Official Gazette and also in such other manner as may be prescribed.

168. (1) Where any person holding land in excess of the ceiling limit at any time during the period between the 10th day of August, 1957 and the 2nd day of December, 1959, has transferred during such period any part of his land to any other person under a registered deed for valuable consideration, the excess land to be determined under section 167 shall, to the extent possible, be selected out of the land held at the commencement of this Act by the transferor in excess of a family holding and no land shall be selected out of the land transferred.

(2) Where any person holding land in excess of the ceiling limit at any time—

(a) during the period between the 10th day of August, 1957 and the 2nd day of December, 1959, has transferred during such period any part of his land to any other person in any manner other than under a registered deed for valuable consideration, or

(b) during the period between the 2nd day of December, 1959 and the commencement of this Act has transferred during such period any part of his land to any other person in any manner whatsoever,

the excess land to be determined under section 167 shall be selected out of the lands held at the commencement of this Act by the transferor and the transferee in the same proportion as the land held by the transferor bears to the land transferred and where no land is held by the transferor, out of the land transferred.

(3) Where excess land is to be selected out of the lands of more than one transferee, such land shall be selected out of the lands held by each of the transferees in the same proportion as the area of the land transferred to him bears to the total area of the lands transferred to all the transferees.

(4) Where any excess land is selected out of the land transferred, the transfer of such land shall be void.

(5) Notwithstanding anything hereinbefore contained, the excess land to be selected shall in no case include the homestead land of a person.

Explanation.—For the purposes of this sub-section, “homestead land” means the land on which the homestead (whether used by the owner or let out on rent) stands together with any courtyard, compound and attached garden, not exceeding one acre in the aggregate.

169. (1) Where any excess land of a raiyat is in his actual possession, the excess land shall vest in the Government.

Excess land to vest in Government.

(2) Where any excess land of a raiyat is in the possession of a person holding the same as an under-raiyat or as a mortgagee and the excess land together with any other land held by such person exceeds his ceiling limit, the land in excess of the ceiling limit shall vest in the Government.

(3) Where any excess land of a raiyat is in the possession of a person holding the same as an under-raiyat or as a mortgagee and such person is allowed to retain the excess land or a part thereof as being within his ceiling limit, that person shall acquire the rights of the raiyat or of the mortgagor, as the case may be, in respect of such excess land or part thereof on payment of compensation, if any, as hereinafter provided, but if that person refuses to pay such compensation, the excess land or part thereof shall vest in the Government.

(4) Where there is any excess land of an under-raiyat or of a mortgagee with possession, the excess land shall vest in the Government:

Provided that in any case where the excess land or any part thereof held by the raiyat or the mortgagor together with any other land held by such person does not exceed the ceiling limit, the excess land or such part thereof as does not exceed the ceiling limit shall be restored to the possession of that person on an application made by him in this behalf to the competent authority within such time as may be prescribed and in the case where the possession of such land is restored to the mortgagor, the mortgage in respect of such land shall be deemed to be a simple mortgage.

Publication of the final list and consequences thereof.

170. (1) Any person aggrieved by an entry in the list published under sub-section (3) of section 167 may, within thirty days from the date of publication thereof in the Official Gazette, file objections thereto before the Collector.

(2) The Collector or any other officer authorised in this behalf by the Administrator may, after considering the objections and after giving the objector or his representatives an opportunity of being heard in the matter, approve or modify the list.

(3) The list as approved or modified under sub-section (2) shall then be published in the Official Gazette and also in such other manner as may be prescribed and subject to the provisions of this Act, the list shall be final.

(4) With effect from the date of the publication of the list in the Official Gazette under sub-section (3),—

(a) the excess land shall stand transferred to and vest in the Government free of all encumbrances; or

(b) the possession of the excess land shall stand restored to the raiyat or the mortgagor, as the case may be; or

(c) the rights of the raiyat or the mortgagor in respect of the excess land shall stand transferred to the under-raiyat or the mortgagee, as the case may be.

171. (1) Where any excess land of a raiyat vests in the Government there shall be paid by the Government to the raiyat compensation, subject to the provisions of sub-section (2), of an amount equal to twenty times the net annual income from such land.

Explanation.—For the purposes of sub-section (1), the net annual income from any land shall be deemed to be one-fifth of the value of the average yearly gross produce of the land, calculated in such manner as may be prescribed.

(2) Where such excess land or any part thereof is in the possession of an under-raiyat, the compensation payable under sub-section (1) in respect of the land shall be apportioned between the raiyat and the under-raiyat in such proportion as may be determined by the competent authority in the prescribed manner, having regard to their respective shares in the net income from such land.

(3) In addition to the compensation payable in respect of any excess land under sub-section (1), there shall also be paid compensation in respect of any structure or building constructed on such land and any trees planted thereon and such compensation shall be determined by the competent authority in the prescribed manner, having regard to the market value of such structure or building or the value of such trees, and such compensation shall be paid to the person who has constructed the structure or building or planted the trees.

(4) Where any excess land in respect of which compensation is payable is subject to any mortgage or other encumbrance, the amount due under the mortgage or other encumbrance in respect of such excess land, or where a transfer in respect of any excess land is void by virtue of sub-section (4) of section 168, the consideration money paid by the transferee in respect of such excess land, shall be a charge on the compensation payable in respect of the excess land to the person who has created the mortgage or encumbrance or, as the case may be, to the transferor.

(5) Where an under-*raiyat* acquires the rights of a *raiyat* in respect of any excess land, the compensation payable by him in respect of that land shall be equal to the amount which the *raiyat* would have been paid as compensation under sub-section (2) or sub-section (3) if the land had vested in the Government; and the amount shall, in the first instance, be paid to the *raiyat* by the Government and shall be recovered from the under-*raiyat* in such manner as may be prescribed.

(6) Where a *mortgagee* in possession acquires the rights of the *mortgagor* in respect of any excess land under sub-section (3) of section 169, the compensation payable by the *mortgagee* in respect of that land shall be such sum of money, if any, as may be due to the *mortgagor* after setting off the mortgage debt against the market value of such excess land.

(7) Where any excess land of a religious or charitable institution vests in the Government, such institution shall, in lieu of compensation payable under sub-section (1) or sub-section (2), or sub-section (3), be paid an annuity equal to the net annual income of the excess land and such net annual income shall be determined by the competent authority in the prescribed manner.

(8) The competent authority shall, after holding an inquiry in the prescribed manner, make an order determining the amount of compensation payable to any person under this section.

**Manner
of payment
of compen-
sation.**

172. (1) The compensation payable under section 171 shall be due from the date of the publication of the list under sub-section (3) of section 170 and may be paid in cash, in a lump sum or in instalments, or in bonds.

(2) Where the compensation is payable in bonds, the bonds may be made not transferable or transferable by endorsement or in any other manner but all such bonds shall be redeemed within such period, not exceeding twenty years from the date of issue, as may be prescribed.

(3) Where there is any delay in the payment of compensation or where the compensation is paid either in instalments or in bonds, it shall carry interest at the rate of two and a half per cent. per annum from the date on which it falls due.

173. No person representing a family shall acquire in any manner whatsoever, whether by transfer, exchange, lease, agreement or succession, any land where such acquisition has the effect of making the total area of the land held by him exceed the ceiling limit; and any such land in excess of the ceiling limit shall be treated as excess land of the transfece and the provisions of sections 167 to 172 shall, as far as may be, apply to such excess land.

Limit of future acquisition of land.

174. Where a person representing a family holds land not exceeding the ceiling limit, but subsequently the land held exceeds the ceiling limit, then, notwithstanding anything contained in this Chapter, such person shall not be required to surrender any part of the land on the ground that it is excess land, if such excess is due to any improvements effected in the land by the efforts of the family or to a decrease in the number of its members.

Excess land not to be surrendered in certain cases.

175. After the publication of the list of excess land under sub-section (3) of section 170, and after demarcation in the prescribed manner of such land where necessary, the Collector may take possession of any excess land and may use or cause to be used such force as may be necessary for the purpose.

Power of Collector to take possession of excess land.

176. (1) Whoever being bound to submit a return under section 165 fails to do so, without reasonable cause, within the prescribed time, or submits a return which he knows or has reason to believe to be false, shall be punishable with fine which may extend to one thousand rupees.

Offences and penalties.

(2) Whoever contravenes any lawful order made under this Chapter or otherwise obstructs any person from lawfully taking possession of any land shall be punishable with fine which may extend to one thousand rupees.

177. Subject to the provisions of this Act, every order made under this Chapter shall be final.

Finality of orders.

178. (1) The Administrator may, on an application made to him in this behalf within three months from the commencement of this Act, exempt from the operation of section 164—

Power to exempt, etc.

(a) any land which is being used for growing tea, coffee or rubber including lands used or required for use for purposes ancillary to, or for the extension of, the cultivation of tea, coffee or rubber to be determined in the prescribed manner;

(b) any sugarcane farm operated by a sugar factory;

(c) any specialised farm which is being used for cattle breeding, dairy or wool raising;

(d) any person who holds a compact block of land exceeding the ceiling limit which—

(i) is being used as an orchard from before the 1st January, 1958; or

(ii) is being used as a farm in which heavy investment or permanent structural improvements have been made and which, in the opinion of the Administrator, is being so efficiently managed that its break up is likely to bring a fall in production:

Provided that where such person holds the compact block of land together with any other land, he shall be permitted to elect to retain either the compact block of land, notwithstanding that it exceeds the ceiling limit or the other land not exceeding the ceiling limit;

(e) any land which is being held by a co-operative society, provided that where a member of any such society holds a share in such land, his share shall be taken into account in determining his ceiling limit:

Provided that the Administrator may entertain the application after the expiry of the said period of three months, if he is satisfied that the applicant was prevented by sufficient cause from making the application in time.

(2) Where any land in respect of which exemption has been granted to a person under clause (d) of sub-section (1) is transferred to another person, the Administrator may, on an application made to him within three months from the date of the transfer, exempt the transferee from the operation of section 164 and section 173 and the provisions of the said clause shall, as far as may be, apply to the grant of such exemption.

(3) Where the Administrator is of opinion that the use of land for any specified purpose is expedient or necessary in the public interest, he may, by notification in the Official Gazette, make a declaration to that effect and on the issue of such notification, any person may, notwithstanding anything contained in section 173, acquire land in excess of the ceiling limit for being used for such specified purpose and such person shall, within one month from the date of such acquisition, send intimation thereof to the competent authority.

(4) Where any land, in respect of which exemption has been granted under sub-section (1) or sub-section (2) or sub-section (3),

ceases to be used, or is not within the prescribed time used, for the purpose for which exemption had been granted, the Administrator may, after giving the persons affected an opportunity of being heard, withdraw such exemption.

CHAPTER XIV.—PREVENTION OF FRAGMENTATION

179. For the purposes of this Chapter,—

Definitions.

- (a) “holding” means the aggregate area of land held by a person as a raiyat;
- (b) “fragment” means a holding of less than two standard acres in area;
- (c) “land” has the same meaning as in Chapter XIII.

180. (1) No portion of a holding shall be transferred by way of sale, exchange, gift, bequest or mortgage with possession, so as to create a fragment: Restrictions on transfer, etc.

Provided that the provisions of this sub-section shall not apply to a gift made in favour of the *Bhoodan* movement initiated by Acharya Vinoba Bhave.

(2) No portion of a holding shall be transferred by way of lease, where as a result of such lease,—

- (i) the lessor shall be left with less than two standard acres, or
- (ii) the total area held by the lessee exceeds the limit of a family holding.

(3) No fragment shall be transferred to a person who does not have some land under personal cultivation or to a person who holds, or by reason of such transfer shall hold, land in excess of the limit of a family holding.

181. (1) No holding shall be partitioned in such manner as to create a fragment. Partition of holding.

(2) A fragment shall not be partitioned unless as a result of such partition its portions get merged in holdings of two standard acres or more or in fragments so as to create holdings of two standard acres or more.

(3) Whenever, in a suit for partition, the court finds that the partition of a holding will result in the creation of a fragment, the court shall, instead of proceeding to divide the holding, direct the

sale of the same and distribute the proceeds thereof among the co-sharers.

(4) Wherever a holding is put up for sale under sub-section (3), a co-sharer shall have the first option to purchase the holding at the highest bid; if there are two or more co-sharers claiming the first option, that co-sharer who offers the highest consideration shall be preferred.

Transfers
in contra-
vention of
this
Chapter.

182. (1) Any transfer, partition or lease of land made in contravention of the provisions of this Chapter shall be void.

(2) No document of transfer, partition or lease of land shall be registered unless declarations in writing are made, in such form and manner as may be prescribed, by the parties thereto before the competent registering authority under the Indian Registration Act, 1908, regarding lands held by each prior to the transaction and the ^{16 of 1908.} land which each shall come to hold thereafter.

(3) No registering authority shall register under the Indian Registration Act, 1908, any document of transfer, partition or lease of land ^{16 of 1908.} if, from the declarations made under sub-section (2), it appears that the transaction has been effected in contravention of the provisions of this Chapter.

Penalty.

183. The parties to any transfer, partition or lease made or entered into in contravention of any of the provisions of this Chapter shall be punishable with fine which may extend to one hundred rupees.

Power to
make
rules.

184. (1) The Administrator may, by notification in the Official Gazette, make rules to carry out the purposes of this Part.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the form in which, and the period within which, a return under section 165 may be submitted;

(b) the agency through which information may be collected under section 166;

(c) the manner of holding enquiries under this Part;

(d) the matters which may be determined under sub-section (1) of section 167 and the manner of determination of excess lands under this Part;

(e) the form in which a list under sub-section (3) of section 167 or sub-section (3) of section 170 may be prepared and the manner of publication of such list;

(f) the period within which an application for restoration of excess land may be made under the proviso to sub-section (4) of section 169;

(g) the manner of apportionment of compensation between the raiyat and the under-raiyat under sub-section (2) of section 171;

(h) the manner of assessment of the market value of any structure or building or trees under sub-section (3) of section 171;

(i) the manner of recovery of the compensation payable by the under-raiyat under sub-section (5) of section 171;

(j) the manner of determining under sub-section (6) of section 171 the market value of any excess land in respect of which a mortgagee in possession acquires the rights of the mortgagor;

(k) the manner of determination of the net annual income of any excess land for the purpose of payment of compensation under section 171;

(l) the manner of payment of compensation, including the number of instalments in which the compensation may be paid or recovered and the period within which bonds may be redeemed;

(m) the manner of demarcation of any excess land under section 175;

(n) the matters which may be determined by the Administrator in granting an exemption under section 178 including the form in which applications and intimations may be made or given, under section 178;

(o) the form of declarations under section 182;

(p) any other matter which has to be, or may be, prescribed.

PART VI

CHAPTER XV.—GENERAL AND MISCELLANEOUS

185. Without prejudice to any other provision of this Act, any Recovery of amount due to the Government, whether by way of costs, penalty amounts due as arrears of

Land
revenue.

or otherwise, and any other amount which is ordered to be paid to or recovered by the Government, under this Act shall be recoverable in the same manner as an arrear of land revenue.

Protection
against
eviction or
surrender in
certain cases.

186. (1) After the commencement of this Act and before the vesting date referred to in sub-section (1) of section 134,—

(a) the provisions of sections 111 to 117 shall, so far as may be, apply to tenants and sub-tenants as defined in clause (d) of section 133;

(b) no such tenant or sub-tenant shall surrender any land held by him as such and no person shall enter upon any such land unless such surrender is *bona fide* and is made with the previous permission in writing of the competent authority, and the provisions of sub-section (3) of section 125 shall apply to any case where such permission is refused;

(c) no such tenant or sub-tenant shall, whether in execution of a decree or order of court or otherwise, be evicted from any such land on any ground other than those specified in clauses (c) and (d) of sub-section (1) of section 118, and any proceeding for eviction of such tenant or sub-tenant on any ground other than those specified in the said clauses (c) and (d) pending at such commencement shall abate without prejudice to any action that may be taken under the provisions of this Act.

(2) Where, on or after the 10th day of August, 1957 and before the commencement of this Act, any such tenant or sub-tenant has surrendered any land held by him as such or been evicted from such land and the surrender or eviction could not have taken place if this Act had been in force on the date of such surrender or eviction, the competent authority may, either on his own motion or on application made by the tenant or sub-tenant in this behalf, restore him to possession of the land which has been surrendered or from which he has been evicted.

Special pro-
motion regard-
ing Schedule
land Tribes.

187. No transfer of land by a person who is a member of the Scheduled Tribes shall be valid unless—

(a) the transfer is to another member of the Scheduled Tribes; or

(b) where the transfer is to a person who is not a member of any such tribe, it is made with the previous permission in writing of the Collector; or

(c) the transfer is by way of mortgage to a co-operative society.

188. No suit or other proceeding shall, unless otherwise expressly provided in this Act, lie or be instituted in any civil court with respect to any matter arising under and provided for by this Act: Jurisdiction of civil courts excluded.

Provided that if in a dispute between parties a question of title is involved, a civil suit may be brought for the adjudication of such question.

189. Save as otherwise provided, the provisions of this Act shall have effect notwithstanding anything to the contrary contained in any other law, custom or usage or agreement or decree or order of court: Act to over-ride contracts and other laws.

190. Notwithstanding anything contained in the Court-fees Act, Court-fees.
• of 1870 1870, every application, appeal or other proceeding under this Act shall bear a court-fee stamp of such value as may be prescribed.

191. Every village accountant and every other village officer appointed under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code. Village officers to be public servants.
• of 1860

192. With the previous approval of the Government, the Administrator may, by notification in the Official Gazette, exempt any class of lands from all or any of the provisions of this Act. Power to exempt.

193. Whoever contravenes any provision of this Act for which no penalty has been otherwise provided for therein shall be punishable with fine which may extend to five hundred rupees. General provision as to penalties.

194. No suit, prosecution or other proceedings shall lie—

(a) against any officer of the Government for anything in good faith done or intended to be done under this Act; Protection of action taken in good faith.

(b) against the Government for any damage caused or likely to be caused or any injury suffered or likely to be suffered by anything in good faith done or intended to be done under this Act.

195. The Administrator may, by notification in the Official Gazette delegate to any officer or authority subordinate to him any of the powers conferred on him or on any officer subordinate to him by this Act, other than the power to make rules, to be exercised subject to such restrictions and conditions as may be specified in the said notification. Delegation of powers.

196. If any difficulty arises in giving effect to any provision of this Act, the Government may, as occasion requires, take any action not inconsistent with the provisions of this Act which may appear to it necessary for the purpose of removing the difficulty. Power to remove difficulties.

General power to make rules.

197. Without prejudice to any power to make rules contained elsewhere in this Act, the Administrator may, by notification in the Official Gazette, make rules generally to carry out the purposes of this Act.

Laying of rules before Parliament.

198. Every rule made under this Act shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Repeal and savings.

199. (1) On and from the date on which any of the provisions of this Act are brought into force in any area in the Union territory of Tripura, the enactments specified in the Schedule or so much thereof as relate to the matters covered by the provisions so brought into force shall stand repealed in such area.

(2) The repeal of any enactment or part thereof by sub-section (1) shall not affect,—

(a) the previous operation of such enactment or anything duly done or suffered thereunder;

(b) any right, privilege, obligation or liability acquired, accrued or incurred under such enactment;

(c) any penalty, forfeiture or punishment incurred in respect of any offence committed against such enactment;

(d) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid;

and any such investigation, legal proceeding or remedy may be instituted or enforced and any such penalty, forfeiture or punishment may be imposed as if such enactment or part thereof had not been repealed.

(3) Subject to the provisions contained in sub-section (2), any appointment, rule, order, notification or proclamation made or issued, any lease, rent, right or liability granted, fixed, acquired or incurred and any other thing done or action taken under any of the enactments or parts thereof repealed under sub-section (1) shall, in so far as it is not inconsistent with the provision of this Act brought into force, be deemed to have been made, issued, granted, fixed,

acquired, incurred, done or taken under this Act and shall continue to be in force until superseded by anything done or any action taken under this Act.

(4) Any custom or usage prevailing at the time any of the provisions of this Act are brought into force in any area in the Union territory of Tripura and having the force of law therein shall, if such custom or usage is repugnant to or inconsistent with such provision, cease to be operative to the extent of such repugnancy or inconsistency.

THE SCHEDULE

[See section 199 (1)]

- (1) Praja Bhumyadhikari Sambandha Bishyak Ain (EK Ain, 1296 Tripurabda).
- (2) 1296 Tripurabder Praja Bhumyadhikari Ain Sansudhan Bishyak 1337 Tripurabder EK Ain, and
1296 Tripurabder Praja Bhumayadhikari Ain Sansudhan Bishyak 1335 Tripurabder EK Ain.
- (3) Rajdhani Agartala Sahar Bondobasta Sambandhiya Bidhan, 1346 T.E.
- (4) Jarip-o-Bondobasta Sambandhiya Niyamabali, 1309 Tripurabda.
- (5) Tripura Rajyer Jarip Bondobasta Sambandhyia Niyamabali Sansudhan Bishyak, 1336 Tripurabder Tin Ain.
- (6) Jarip-o-Bondobasta Sambandhiya Niyamabali (Prathem Khanda).
- (7) Jarip-o-Bondobasta Sambandhiya Niyamabali (Dwitiya Khanda), 1323 T.E.
- (8) 1290 Saner EK Ain Orthat Rajaswa Sambandhiya Niyamabali, and
1323 Tripurabder Dui Ain Orthat Rajaswa Sambandhiya
1290 Saner EK Ain Sansudhan Bishyak Bidhi.

(9) Sarkari Prapya Aday Sambandhiya 1326 Tripura Char Ain,
and

Sarkari Prapya Aday Sambandhiya 1326 Tripurar Char Ain
Sansudhan Bishyak Ain Athaba 1358 Tring Saner 18 Nang
Ain.

R. C. S. SARKAR, Secy.